THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.15212 OF 2006

DATED: 08TH SEPTEMBER, 2006.

Between :

Mohd. Naseerkhan .. Petitioner

And

1. The District Collector, Mahaboobnagar;
   And 2 others. .. Respondents

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WRIT PETITION NO.15212 OF 2006

ORDER :

The 2nd respondent herein issued a tender notice dated 12.4.2006 inviting tenders for supply of various items and services to the A.P. Social Welfare Residential School, Lingal, Mahaboobnagar District. The petitioner submitted his tender on 24-5-2006 in a sealed cover. It is claimed that the sealed tenders were opened on 25-5-2006 and the price quoted by him was found to be the lowest. It is alleged that the respondents instead of confirming the tender in his favour deliberately postponed the same to the next day and the petitioner was asked to come on the next day. However, when the petitioner met the 2nd respondent on 26-5-2006 at 11.00 am he was informed that the tenders were already finalized and since he was not present the tender was confirmed in favour of the next lowest bidder. Aggrieved by the said action, this writ petition is filed seeking a declaration that the action of the 2nd respondent is arbitrary and illegal.

On behalf of the respondents, the 3rd respondent who is also one of the Members of the Tender Committee filed a counter-affidavit stating that the tender box was opened on 26-5-2006 after informing all the participants. It is further stated that though the petitioner was the lowest bidder, he was not present on 26-5-2006 and therefore the contract was awarded to the next lowest tenderer.

I have heard the learned Counsel for both the parties and

perused the material on record.

The learned Counsel appearing for the 2nd respondent has placed before this Court the letter addressed by the petitioner dated 26-5-2006 in which he himself stated that he could not be present on 26-5-2006 at the time of finalisation of tenders. The learned Counsel for the petitioner also did not dispute the said fact.

From the counter-affidavit filed by the respondents, it is clear that the tenders were not opened on 25-5-2006 as scheduled, but the same was postponed to 26-5-2006 after informing all the participants. The petitioner did not file any affidavit in reply contradicting the said version nor any other material is placed before this Court to show that that tenders were actually opened on 25-5-2006 but the respondents had only postponed the confirmation to 26-5-2006.

The explanation offered in the counter-affidavit shows that the opening of the tenders was postponed for valid reasons. In the absence of allegation of any mala fides against any of the respondents and particularly since the action of the respondents in opening the tenders on the next day is not in violation of the statutory provisions, it cannot be held that the respondents acted illegally.

May be that the petitioner was the lowest tenderer, however, the law is well settled that the lowest bidder cannot claim any vested right to the award of contract. Since admittedly he was not present at the time of finalisation of tenders, the respondents cannot be found fault with in not considering his tender and in awarding the contract in favour of the 2nd lowest bidder. Hence, the interference by this Court is not warranted.

The Writ Petition is accordingly dismissed. No costs.

G. ROHINI, J.

Dt. 8-9-2006
gbs